IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 23RD AUGUST 2007 / 1ST BHADRA 1929

Crl.MC.No. 2705 of 2007()

CC.361/2006 of JUDL. MAGISTRATE OF FIRST CLASS COURT-III, TRIVANDRUM

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PETITIONER:

RAJAPPAN MIRANDA, S/O PETER MIRANDA,
AGED 33 YEARS, RESIDING AT APSARA HOUSE,
NEAR ST.DOMENIC CHURCH, VETTUKADU, KAMUKARA MURY,
MENAMKULAM VILLAGE, KAZHAKUTTAM,
THIRUVANANTHAPURAM.

BY ADV. SRI.V.N.GOPALAKRISHNAN NAIR
SRI.G.SURARSHAN

RESPONDENTS:

STATE REPRESENTED BY SUB INSPECTOR OF
POLICE, KAZHAKUTTAM POLICE STATION,
(CRIME NO.72/2000) REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI. C.K. SURESH.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 2705 of 2007

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Dated this the 23rd day of August, 2007

O R D E R

The petitioner faces indictment in a prosecution for offences punishable, inter alia, under Section 326 r/w. 34 I.P.C. Altogether there were four accused persons. The petitioner was the second accused. Final report was filed. Cognizance was taken by the learned Magistrate. The petitioner also participated in the trial. But before the trial was completed the petitioner started absconding. Co-accused, who faced trial along with the petitioner, continued to face the trial. They were found not guilty and acquitted. The case against the petitioner was split up. The petitioner now finds a warrant of arrest issued by the learned Magistrate chasing him.

2. According to the petitioner he is absolutely innocent. His failure/omission to appear earlier was not wilful, but was due to reasons beyond his control. He is willing to surrender before the learned Magistrate and seek bail. He shall co-operate with the Court for the expeditious disposal of the case. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these

circumstances it is prayed that appropriate directions may be issued to the learned Magistrate to release the petitioner on bail on the date of surrender itself.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner when he surrenders before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. The learned counsel makes a further request that there may be a direction to expeditiously complete the proceedings against the petitioner. He had taken part in the proceedings until the case reached the stage of S.313 Cr.P.C. The case need only be continued from that point. The counsel prays that there may be a direction to the learned Magistrate to dispose of the case expeditiously. I find the said request to be legitimate. The petitioner has to make the said request before the learned Magistrate. I need only observe that I expect the learned Magistrate to consider the request of the petitioner and dispose of the case expeditiously.

6. Hand over the order.

(R. BASANT)
Judge

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